



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,955	03/24/2004	Wynn Peter Holloway	P458	4084

7590 05/02/2007
PAUL E MILLIKEN
9061 WALL STREET, NW
MASSILLON, OH 44646-1676

EXAMINER
BARTOSIK, ANTHONY N

ART UNIT	PAPER NUMBER
3609	

MAIL DATE	DELIVERY MODE
05/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,955

Applicant(s)

HOLLOWAY, WYNN PETER

Examiner

Anthony N. Bartosik

Art Unit

3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on March 24, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION***Priority***

1. The foreign priority claim filed on October 5, 2004 was not entered because the foreign priority claim was not filed during the time period set forth in 37 CFR 1.55(a)(1). For original applications filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the time period is during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. For applications that have entered national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT. See 37 CFR 1.55(a)(1)(ii). If applicant desires priority under 35 U.S.C. 119(a)-(d), (f) or 365(a) based upon a prior foreign application, applicant must file a petition for an unintentionally delayed priority claim (37 CFR 1.55(c)). The petition must be accompanied by (1) the claim (i.e., the claim required by 35 U.S.C. 119(a)-(d) and (f) and 37 CFR 1.55) for priority to the prior foreign application, unless previously submitted; (2) a surcharge under 37 CFR 1.17(t); and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed

Art Unit: 3609

to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference signs 10 & 41 are not found in Figure 2 as discussed in page 6 line 1 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "suitable material" in claim 2 is a relative term which renders the claim indefinite. The term "suitable material"

is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

4. Regarding claim 3, the phrase "may be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). As written the limitations of claim 3 do not require that the strut be filled with a core of resin, thereby not further limiting claim 2 from which claim 3 depends.

5. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "panels" within claim 4 lacks proper antecedent basis. It is unclear whether applicant is referring to the properly stated singular "panel" or if they intend to introduce a new structure by using the term "panels." Claim 4 is also rejected under 35 U.S.C. 112, second paragraph for lack of proper antecedent basis regarding the term "the eaves."

6. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As written claim 7 improperly depends from itself. Examiner is assuming this a typographical error and for examination purposes treating claim 7 to depend from claim 6.

7. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As previously stated in regards to

Art Unit: 3609

claim 4, applicant has not presented the proper antecedent basis for "the panels" as set forth as a limitation of claim 12. Additionally, there appears to be a typographical error on line 6 of page 12. The phrase "use is secured the upper end" seems to be missing the word "to" between "secured" and "the" of the previously mentioned phrase.

8. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the claim language, as to what limitations applicant is intending to be understood from the claim.

Claim Rejections - 35 USC § 101

9. Claims 12-15 provides for the "method of securing a roof panel" but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 12 –15 are rejected under 35 U.S.C. 101 because the claimed recitation of a method, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966). Claim 13, while written in proper method form, is rejected due to its dependency from claim 12.

Claim Rejections - 35 USC § 102

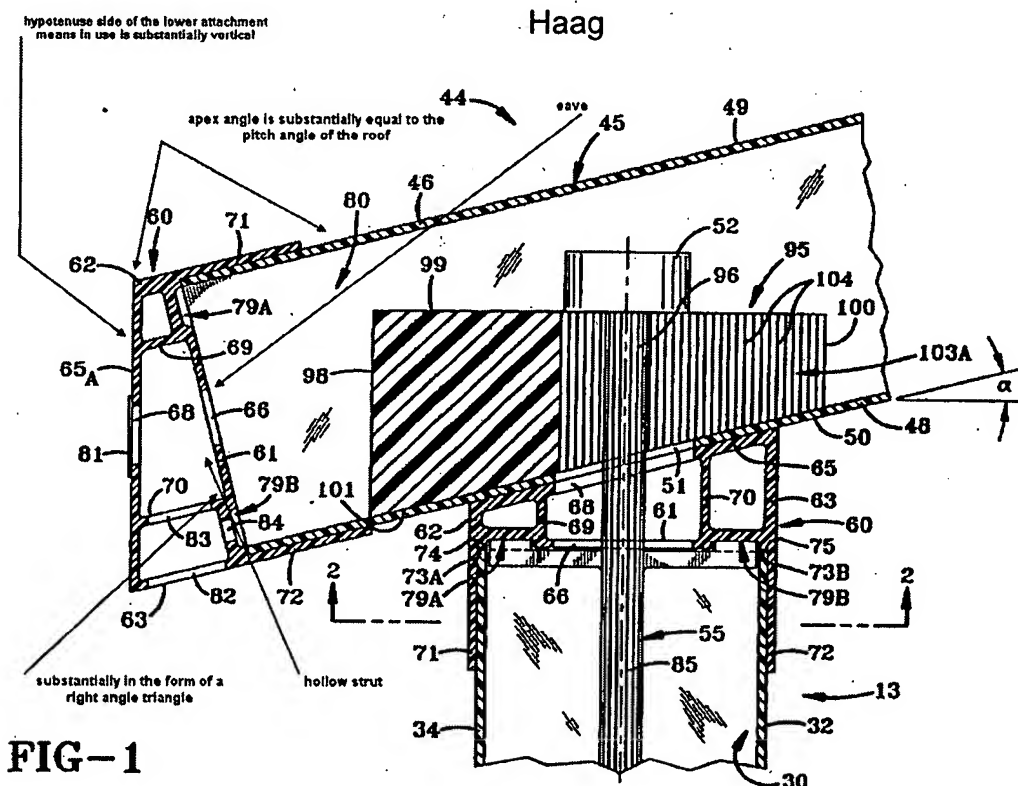
10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, and 9 as best understood, are rejected under U.S.C. 102(b) as being anticipated by Haag (U.S. 5,274,974).



Art Unit: 3609

11. In Re claim 1, with reference to Figure 1, Haag discloses an attachment means for roof panels of a pitched roof, and which comprises, an elongate strut (60) which in cross-section has a portion substantially in the form of a right angle triangle whose apex angle is substantially equal to the pitch angle of the roof and the base side of which is adapted to locate in a recess in the end of a roof panel (45).

12. In Re claim 2, Hagg with reference to Figure 1, discloses an elongate strut (60) that is hollow having an outer shell formed from a suitable material.

13. In Re claim 3, Hagg with reference to Figure 1 and Column 15 Lines 31-44, discloses the hollow strut of claim 2 wherein the hollow centre of the strut may be filled with a core of resin cellular material.

14. In Re claim 4, Hagg with reference to Figures 1 and 6, disclose an attachment means (60) that is a lower attachment means which in use is secured to the lower ends of panels (45) adjacent the eaves, the base side being adapted to engage in the recess in the lower end of the panel (45) such that the two sides of the panel are substantially flush with the respective ends of the base side.

15. In Re claim 5, Hagg with reference Figure 1, discloses the hypotenuse side (65) of the lower attachment means in use is substantially vertical providing a fixing surface for guttering and soffits.

16. In Re claim 6, Hagg with reference Figure 1, discloses an attachment means (60) that is an upper attachment means which in use is secured the upper end of the panels (45), the base side being adapted to engage in a recess in the

Art Unit: 3609

upper end of a panel (45), and the hypotenuse side has an undercut slot (68) formed therein, capable of being locked onto a ridge beam.

17. In Re claim 8, Hagg with reference to Figure 1 and 6, discloses an attachment means (60) that has a sufficient length to transverse a plurality of side by side roof panels and link them together (10).

18. In Re claim 9, Hagg with reference to Figure 1, discloses a roofing panel (45) having attachment means (60) located at one or both ends of said panel (45).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Clams 10 and 11 are rejected under 103(a) as being obvious over Haag in view of Bryant and Allen et al.

20. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haag (U.S. 5,274,974) in view of Bryant (U.S. Patent Application US 2002/0069600) and Allen et al. (U.S. 6,176,054). Haag has been discussed above and teaches all the attachment means, as well as a roof panel having a rectangular fame covered in board material, but dose not specifically teach the frame comprising top and bottom rails joined together by "I" beams.

Art Unit: 3609

Figure 2 of Bryant shows that a panel frame with rails joined together with "I" beams is an equivalent structure known in the art. Therefore, because these two panels structures were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the panel of Haag with the panels of Bryant. Bryant does not expressly teach mounting rails on the bottom, however it is well known in the art to mount rails on the bottom of panels as taught by Allen et al. Figure 1. Regarding the limitation of the panels having "bottom rails," the examiner notes that forming a rail on the bottom of a panel enhances the rigidity of strength of the panel. Therefore, it would have been obvious to one of ordinary skill in the art to modify the attachment means and panel of Haag with the panel of Bryant and bottom rail of Allen et al.

Art Unit: 3609

roof. The Examiner takes official notice that it is commonly know in the art to make roofs with different pitch angles. It would therefore be obvious to choose an attachment means as taught by Haag with differing apex angles so as to correspond to different pitch angles of a roof.

Allowable Subject Matter

22. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

23. Claims 12-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and 35 U.S.C. 101, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Zen, US Patent 6,591,558 B1 discloses structure that is relevant to the invention as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony N. Bartosik whose telephone number is 2723600. The examiner can normally be reached on M-F 7:30-5:00; Alter Fri Off E.D.T.

Art Unit: 3609

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson
Supervisory Patent Examiner
Group 3600

AB
4/2007